



**COMMANDER'S GUIDE
OVERVIEW OF STATE LEGISLATIVE
AND ADMINISTRATIVE ACTIONS**

**WHITE SANDS MISSILE RANGE
KWAJALEIN MISSILE RANGE
YUMA PROVING GROUND
DUGWAY PROVING GROUND
ABERDEEN TEST CENTER
NATIONAL TRAINING CENTER
ELECTRONIC PROVING GROUND**

**NAVAL AIR WARFARE CENTER WEAPONS DIVISION
NAVAL AIR WARFARE CENTER AIRCRAFT DIVISION
NAVAL UNDERSEA WARFARE CENTER DIVISION, NEWPORT
PACIFIC MISSILE RANGE FACILITY
NAVAL UNDERSEA WARFARE CENTER DIVISION, KEYPORT**

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45TH SPACE WING
AIR FORCE FLIGHT TEST CENTER
AIR FORCE AIR ARMAMENT CENTER
ARNOLD ENGINEERING DEVELOPMENT CENTER
BARRY M. GOLDWATER RANGE**

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Report Documentation Page			Form Approved OMB No. 0704-0188		
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1. REPORT DATE DEC 2005		2. REPORT TYPE		3. DATES COVERED 00-12-2004 to 00-12-2005	
4. TITLE AND SUBTITLE Commander's Guide Overview of State Legislative and Administrative Actions			5a. CONTRACT NUMBER		
			5b. GRANT NUMBER		
			5c. PROGRAM ELEMENT NUMBER		
6. AUTHOR(S)			5d. PROJECT NUMBER		
			5e. TASK NUMBER		
			5f. WORK UNIT NUMBER		
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES) Range Commanders Council,1510 Headquarters Avenue,White Sands Missile Range,NM,88002			8. PERFORMING ORGANIZATION REPORT NUMBER		
9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES)			10. SPONSOR/MONITOR'S ACRONYM(S)		
			11. SPONSOR/MONITOR'S REPORT NUMBER(S)		
12. DISTRIBUTION/AVAILABILITY STATEMENT Approved for public release; distribution unlimited					
13. SUPPLEMENTARY NOTES					
14. ABSTRACT This document provides a summary analysis of state legislative and administrative information available on the Denix website.					
15. SUBJECT TERMS Denix; Sustainability Group; Range Sustainability Program; military sustainability					
16. SECURITY CLASSIFICATION OF:			17. LIMITATION OF ABSTRACT Same as Report (SAR)	18. NUMBER OF PAGES 14	19a. NAME OF RESPONSIBLE PERSON
a. REPORT unclassified	b. ABSTRACT unclassified	c. THIS PAGE unclassified			

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DECEMBER 2005

Prepared by

**SUSTAINABILITY GROUP
RANGE COMMANDERS COUNCIL**

Published by

**Secretariat
Range Commanders Council
U.S. Army White Sands Missile Range
New Mexico 88002-5110**

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Commander's Guide

Overview of State Legislative and Administrative Actions

Introduction

The mission of the Range Commanders Council (RCC) is to serve “the technical and operational needs of U.S. test, training, and operational ranges.” The Sustainability Group (SG), founded in 2000, is one of many RCC workgroups. The SG meets twice each year to review and discuss the latest issues affecting the ability of installations and ranges to sustain their missions and shares tools for proactively addressing these concerns. SG efforts focus on outreach, land use, urban growth, and other sustainability areas.

The purpose of this document is to provide the military an analysis of state legislative and administrative information available on the Denix website. The website can be accessed at <http://www.denix.osd.mil/SustainableRanges>. The information contained in the 50 state summary documents was assembled into eight categories and a ninth category of “miscellaneous” was used to capture the remaining items. The categories are divided into examples of proactive approaches the states have taken to address military sustainability. All references to a particular state were removed. This document provides a brief overview and is not meant to be an exhaustive resource. For more information please contact the RCC SG.

Overview

The Resource Map, State Initiatives Supporting Military Range Sustainability, Figure 1, is available on the Denix website. This map and state information is part of the overall OSD Range Sustainability Program. The information went “live” in October 2004 and includes state actions as of August 2004. The map has been updated since that date with additional information. The state information is accessible by state or by category. The states are color coded for easy reference so that the viewer knows what category that state has implemented. There are over 200 items collected and divided into eight categories, plus a ninth category of “miscellaneous” to capture remaining items. Information accessible through this program includes:

- Links to governor's and legislative websites
- If applicable, contact information for Governor's Military Liaisons
- Actions Relating to Military Sustainability that are divided by legislative and administrative actions.
- Links to full texts of bills, studies, and other relevant information.



Figure 1. Resource Map: State Initiatives Supporting Military Range Sustainability.

Purpose

The purpose of this document is to provide a summary analysis of the information contained in the Interactive Resource Map. Given the wealth of information available, it was appropriate to analyze each of the categories and the states' approaches within the categories. This document will provide general information on the "best practices" within each category. This document does not include references to particular states. It should help to illustrate that there are many approaches within each category to provide the military the information needed to fully engage on state legislative matters.

Categorical Summaries.

The Summary of State Efforts to Support Military Sustainability - Summary of State Efforts by Category contains the states' legislative and administrative actions by category. The document is divided into nine categories. Within each of the categories are the various approaches states have enacted. This information does not include any references to particular states.

The nine categories along with recommendations on the "best practices" in each category are listed below.

1. State Military Committees

a. Brief Description.

Committee or Executive Branch Office formed to advise the legislature and/or Governor on such issues as recommendations for future legislative actions and reviewing rules and procedures to support the military mission.

b. Best Practices for State Military Committees:

- (1) Committees that are not related to the BRAC process but instead focus on preserving the state's current and future military mission.
- (2) Each state's political climate is different. Therefore, the entity that would be best to create the state military committee varies.
- (3) Committees that proactively assist with coordination between the state's military and such entities as the Legislature, Governor, Congressional delegation, state and local leaders.
- (4) The committees that are more successful focus on study areas such as one or more of the following:
 - (a) Identifying existing and potential impacts of encroachment on military installations along with potential State and community actions that can minimize such impacts.
 - (b) Identifying infrastructure requirements, environmental needs, military force structure possibilities, tax implications, property considerations and issues.
 - (c) Recommending executive, legislative and federal actions necessary to sustain and grow installations.

2. Enhanced Planning, Communication, And Notification

a. Brief Description.

- (1) Creates or expands procedural requirements to provide planning and zoning information to the military.
- (2) Creates a specific mechanism for the military to make comments on how the proposed development or planning change affects the military mission.
- (3) Sets forth provisions to include a non-voting military representative on zoning or planning boards.

- b. Best Practices for Enhanced Planning Communication and Notification.
- (1) Due to the differences between military and local government operations it is very helpful to have statutory provisions requiring planning information to be sent to the military. It is important that the military be given sufficient time to respond to planning issues given the military's chain-of-command and the time it takes to work within this structure to provide a quality response. The best structure provides the military 60 days notice in advance of the public hearing.
 - (2) Another important factor in notification is the "zone" that is established that dictates the scope of the area for which the military will receive planning information. Obviously it would be better that the military have a larger notification zone but it is important that the zone not be so large that the military does not have the capacity to respond to such requests. The issue of the size of the zone varies depending on the individual military mission. Many states have adopted a 3,000 foot buffer around the installation itself. The best notification boundary is one that contains the military installation, its noise contours and its major flight paths which provides approximately a five to ten- mile zone in each direction.
 - (3) It is important that the military be aware of planning issues just outside its gates but other areas are also important. The best notification zones also include special use airspace and land beneath a low-level flight path.
 - (4) The entity that is required to notify the military of planning issues is in most cases the city, county and town; the best notification also includes school boards.
 - (5) The best communication provides that each state agency has an internal military liaison and the Governor meets with every installation commander to discuss issues impacting their troops, installations and communities.
 - (6) The best planning processes require that the military be included on the local planning and zoning commission/board. In addition, the governing board is required to incorporate military boundaries within the communities' general/comprehensive plans. Open-space should include "areas adjacent to military installations, military training routes, and underlying restricted airspace that can provide additional buffer zones to military activities and complement the resource values of the military lands."
 - (7) One state has required the Fish and Game Commission to adopt a master plan and confer with the United States Navy regarding its activities.
 - (8) One state requires a local agency to forward a copy of an application to install a small wind energy system within the restricted airspace to the governing authority of that airspace.
 - (9) It is also helpful when states offer suggestions or recommendations of items on which the military should provide comment when reviewing proposed land use changes. This information has helped to guide the military to know what information would be beneficial to the community, so that decisions are made with full information.
 - (10) The best laws also provide that notice to the military would be sent to a particular contact office by some method that is at least as rapid as first-class postage to assist the military receiving notification in a timely manner.

3. Enhanced Disclosure

a. Brief Description.

Requirements that prospective property owners be notified in advance of their purchase that the land is near a military facility and/or may be affected by aspects of military activities (noise, etc.).

b. Best Practices for Enhanced Disclosure.

- (1) Only one state has taken actions in this category. The important provisions adopted include development of a map of “territory in the vicinity” of military airports and their ancillary military facilities. The “territory” is a large area that includes the military’s contours lines, arrival and departure corridors and major flight paths. Within these areas disclosure is provided on the first page of public reports for both subdivided and un-subdivided lands. Disclosure is also provided through the title report and deed for all property within this area.
- (2) Disclosure is also provided in public reports for any lots, parcels, or fractional interests within subdivisions if they are located under a military training route (defined by the Department of Defense document, “Area Planning Military Training Routes for North and South America.”)

4. Allocation Of Resources (Money)

a. Brief Description.

Money made available to support military mission sustainability. This money includes general appropriations, grants, and funds to acquire easements, land exchanges, or bonding authority for infrastructure projects of benefit to the military done at the state level.

b. Best Practices for Allocation of Resources (Money).

The best state approach to allocation of resources includes:

- (1) A grant process that provides multi-year funding with clearly defined areas that money may be spent on. This has included purchase of private property, real estate or property rights and related infrastructure to preserve or enhance a military facility.
- (2) Land acquired that provides a compatible land use buffer around a military facility and establishes preserves for endangered species.
- (3) Appropriations for capital improvements such as improvements to military overpass and entrance.
- (4) Appropriations for easements in critical operating area of a military installation.
- (5) Loans to assist defense communities in preserving their military mission.
- (6) Land exchange to assist in facilitating compatible land uses around military facilities.

- (7) Using the federal buffer authority.
- (8) Providing tax credits for entities that assist in securing compatible land uses around military facilities (i.e. participation in an agricultural preserve).

5. Open Space/Conservation Money

a. Brief Description.

Allocation of state resources for open space/conservation such as acquisition or conservation easements for restoration and preservation of historical and cultural resources, open space, farmland, and land protection projects.

b. Best Practices for Open Space/Conservation.

- (1) Each state's approach to providing open space/conservation money is very different and reflects the state's political climate.
- (2) The best state approaches to providing open space/conservation money are those states that recognize that open space should also be located around military facilities.

6. Money For Administration

a. Brief Description.

Appropriations relating to state efforts to retain military facilities or to assist in the mitigation of the adverse affects of closure of a military base.

b. "Best Practices" for Money for Administration.

This category generally addresses Base Realignment and Closure (BRAC) related efforts.

7. Enhanced Planning Or Zoning Restrictions

a. Brief Description.

- (1) Requirements created for government to plan "compatible" land uses in the vicinity of military facilities.
- (2) Established definitions of "compatible" and accompanying zoning restrictions or building standards.
- (3) Gives land in the vicinity of any DoD installation or type of installation, such as a military airfield, an elevated status as land of special concern or other such designation, creating additional procedural or other requirements applicable to the development and/use of such land.
- (4) Includes conservation tools that do not require funding such as provisions to allow for transfer of densities so that the more intense land uses can be located further away from a military facility.

- b. Best Practices for Enhanced Planning or Zoning Restrictions.
 - (1) Many states require “compatible” land uses in areas near military facilities.
Sometimes there are definitional issues between the military and planning entities on what “compatible” means. The best state approach includes specific definition of “compatible” in each of the military’s contours. This approach also provides for a mechanism that allows for the military and community to agree to a use that is not listed. This action enables the community to include additional criteria that are not listed.
 - (2) Some states require the planning entities to review analysis by the military on proposed land use changes prior to making decisions and make this information part of the public record. This is a good approach also; the best of these do not consider the development “compatible” if the military does not provide comment.
 - (3) Establishing noise attenuation standards in areas around military facilities.
 - (4) Providing the county eminent domain powers to acquire land or an easement when a land use exists or when a municipality approves a use that is not compatible with the AICUZ and is within the 65 decibel contour, clear zones, runway protection zones or Accident Potential Zones one and two.
 - (5) Some states have provided guiding principles for planning authorities to consider when making land use recommendations near military facilities. These guiding principles include:
 - (a) Determining if the proposal is consistent with the AICUZ.
 - (b) Restricting uses that violate height restrictions set forth by the Federal Aviation Regulation.
 - (c) Protection of the public and providing safe aircraft operations.
 - (d) Restricting uses that interfere with military operations.
 - (6) Requiring cities, towns and counties to incorporate military facilities within its general or comprehensive planning documents.
 - (7) Providing cities, towns and counties with planning tools.

8. Studies

a. Brief Description.

Statewide studies conducted to support military activities. For example, study of the economic impact of a state’s military facilities.

b. Best Practices for Studies.

Those studies conducted at the state level that are best help bridge efforts between the military and community. For example, studies that help communities better understand how to best plan around military facilities and those that help to describe the military’s economic benefits.

9. Miscellaneous

a. Brief Description.

Military sustainability items that do not fit in any of the above categories.

b. Best Practices for Miscellaneous.

- (1) Providing conservation tools to assist in planning efforts.
- (2) Making efforts to preserve the military's special use airspace, such as requiring the state's Division of Aviation of the Department of Transportation to provide to the legislature all applications to the Federal Aviation Administration (FAA) and proposed rule changes by the FAA for the creation of or changes in special use airspaces, including military operation areas and restricted areas for aircraft operation within the state. The legislature is to notify the Federal Aviation Administration of the state's official position on the pending application or rule change.
- (3) Enabling the state to sell, lease or grant easements on unused or underused state property to the United States armed forces if "after consultation with appropriate military authorities" the state determines that this property would materially assist the military in mission accomplishment.

Conclusion

Military missions greatly vary in each state as do state approaches to preserve their military missions. No one state has adopted all proactive approaches to support military sustainability. The best approaches are multi-faceted and consider both current and future military mission.